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8   IN THE UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

10   MICHAEL A. SERGER,

11   Petitioner,   No. CIV S-08-2726 GGH P

12   vs.

13   NAPA STATE HOSPITAL, et al.,

14   Respondents.   ORDER

15   _____/

16   Petitioner, a county detainee proceeding pro se, has filed an application for a writ

17   of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner did not file an application to proceed

18   in forma pauperis.

19   Although filed on a habeas corpus petition, petitioner alleges that he is being

20   denied adequate medical care by officials at Napa State Hospital, where he is currently detained.

21   Because petitioner is challenging conditions of confinement, the court construes this action as a

22   civil rights action pursuant to 42 U.S.C. § 1983.

23   The federal venue statute requires that a civil action, other than one based on

24   diversity jurisdiction, be brought only in "(1) a judicial district where any defendant resides, if all

25   defendants reside in the same State, (2) a judicial district in which a substantial part of the events

26   or omissions giving rise to the claim occurred, or a substantial part of property that is the subject

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1   of the action is situated, or (3) a judicial district in which any defendant may be found, if there is

2   no district in which the action may otherwise be brought." 28 U.S.C. § 1391(b).

3   In this case, the defendants are located and the claim arose in Napa County, which

4   is in the Northern District of California. Therefore, plaintiff's claim should have been filed in the

5   United States District Court for the Northern District of California. In the interest of justice, a

6   federal court may transfer a complaint filed in the wrong district to the correct district. See 28

7   U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

8   Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the

9   United States District Court for the Northern District of California.

10   DATED: November 21, 2008

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12   /s/ Gregory G. Hollows
                                      _____
13   UNITED STATES MAGISTRATE JUDGE

14   GGH:mp
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